

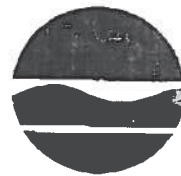
**New York State Department of Environmental Conservation
Division of Environmental Enforcement**

Eastern Field Unit

200 White Plains Road, 5th Floor, Tarrytown, New York 10591-5805

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Website: www.dec.state.ny.us



John P. Cahill
Commissioner

March 2, 2001

Via Airborne

Nicholas Ward-Willis, Esq.
Keane & Beane, P.C.
1 North Broadway
White Plains, New York 10601

Re: Magna Metals
Site # 3-60-003

Dear Mr. Ward-Willis:

This letter is in response to your letter of April 10, 2000 addressed to Mr. John Rashak, P.E. which puts forth the legal argument that any additional investigation is outside the scope of the Order on Consent and which seeks the Department's approval of the draft Remedial Investigation (RI) report.

As you may be aware, because of allocation of resources, the Department has assigned Ms. Sally Dewes, P.E. as the project manager for the Magna Metals Site. Based upon review of the Site file by the Department's Bureau of Eastern Remedial Action, the Department believes that it is premature at this time to discontinue the investigation of the Site. Therefore, the Department is hereby disapproving the draft RI Report. The Department has sent previous comments on the report, some of which have been addressed. Several main issues, however, must be addressed by further investigation. These outstanding issues include: (i) locating the source of the groundwater contamination, (ii) defining the extent of the groundwater contaminant plume, (iii) ensuring all underground structures have been located, (iv) delineating fully the nature and extent of the soil contamination, and (v) collecting additional sediment data points.

The Order on Consent issued by the Department to ISC Properties, Inc. ("ISC") on May 21, 1996 was for the Development and Implementation of a Remedial Investigation/Feasibility Study ("RI/FS") for the Magna Metals Site. The Department's regulations, consistent with the National Contingency Plan, define the RI as the process undertaken to determine the nature and extent of contamination including the gathering of sufficient information to determine the necessity for, and the proposed extent of, the remedial program and to support the evaluation of proposed remedial alternatives.

The data gathered to date does not provide sufficient information on the nature and extent of the contamination and therefore is inadequate basis for the preparation of a Feasibility Study. Subparagraph VII.B of the RI/FS Order states, "Respondent shall modify and/or amplify and expand a submittal upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary." Although a Work Plan was attached to the RI/FS Order, the Order clearly states as one of its goals that ISC develop and implement a Remedial Investigation and prepare and submit a Feasibility Study for the Site.

The RI/FS Order does not require ISC to implement interim remedial measures ("IRMs"). If ISC wished to initiate a soil removal as an IRM, the Department is open to discussion, but the IRM would not preclude the further investigation of other aspects of soil contamination.

Additionally, ISC should provide to the Department an all inclusive list of the compounds associated with Magna Metals, Lightron Residential Lighting, Inc., and/or Lightron Corp. manufacturing processes and their degradation products so that the Department can make a determination as to the validity of your vague assertion that a subsequent occupant of the Site contributed to the hazardous waste contamination. The July 20, 1982 Order on Consent issued by the Department to ISC indicates that Magna Metals disposed of effluent containing both industrial and hazardous wastes into the leaching pits which included, among other things, iron, copper, zinc, cadmium, chromium, cyanide, lead, nickel, maganesc, benzene, toluene, xylene, phenols, sulfates, nitrates, chlorides, trichloroethylene and other halogenated organics.

The Department requests that ISC recommence the investigation immediately by tasking ISC's consultant submit to the Department, no later than April 2, 2001, a work plan to perform the balance of the RI required by the RI/FS Order. This work plan should be distributed to the persons on the communication list as stated in the RI/FS Order with the substitution of the Department's new project manager - Sally Dewes, P.E., New York State Department of Environmental Conservation, Division of Environmental Remediation, 50 Wolf Road, Albany, NY 12233-7010.

Also, in the future, please address your correspondence to the Department's attorney assigned to the Magna Metals Site.

Sincerely,



Rosalie K. Rusinko
Senior Attorney

cc: B. Cozzy
S. Dewes



TRANSMITTAL SLIP

TO	Doug Grimmer, Baker Properties	DATE	11-6-01
FROM	Sully Dewes, NYSDEC		
RE:	Magna Metals, 360003		
Attached is a copy of a Dept. letter with a general discussion of the ^{investigative} work that remains to be done at the site.			
If you have any questions please call me at 518-402-9622.			

FOR ACTION AS INDICATED:

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| <input type="checkbox"/> Please Handle | <input type="checkbox"/> For Your Information | <input type="checkbox"/> Comments |
| <input type="checkbox"/> Approval/Signature | <input type="checkbox"/> File | <input type="checkbox"/> Return to me by _____ |
| <input type="checkbox"/> Prepare Reply for _____ | Signature | |
| <input type="checkbox"/> _____ | | |